IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2958 of 2001

with

Special Civil Application Nos.2959, 2960,
2961, 2962, 2963 and 2964 of 2001.

For Approval and Signature:

Hon'ble MR.JUSTICE J.N.BHATT
and
Hon'ble MR.JUSTICE A.M.KAPADIA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

ESSEN MULTIPACK PVT. LTD.

Versus

UNION OF INDIA

Appearance:

MR PARESH M DAVE for Petitioners in all petitions.
Mr. Asim Pandya for respondents in SCA Nos.2958 & 2959 of 2001.
Mr. Akshay Mehta for respondents in SCA Nos. 2960 to 2964 of 2001.

CORAM : MR.JUSTICE J.N.BHATT
and

MR.JUSTICE A.M.KAPADIA

Date of decision: 25/04/2001

ORAL JUDGEMENT

(Per : MR.JUSTICE J.N.BHATT)

1. Rule. Mr. Asim Pandya, learned Additional Central Government Standing Counsel, appears and waives service of rule on behalf of the respondents in Special Civil Application Nos. 2958 and 2959 of 2001. Mr. Akshay Mehta, learned Central Government Standing Counsel, appears and waives service on behalf of the respondents, in Special Civil Application Nos. 2960 to 2964 of 2001.

2. In the facts and circumstances of the case and upon joint request, the matter is taken up for final hearing today.

3. As such, these petitions are filed against non-action in hearing and deciding the stay applications filed by the petitioners. In the meanwhile, as the grievance is voiced on behalf of the petitioners, the respondent authority has started proceeding for coercive recovery of the dues against the petitioners in respect of which the grievance is made by the petitioners and the appeals as ell as the applications for stay are pending.

4. Mr. Dave, learned advocate or the petitioners, has relied on various decisions of this Court, the copies whereof, are shown to us, and also on the decisions of the Hon'ble Supreme Court, copies whereof, are, also, shown to us and has contended that, until the stay applications are heard and decided, the respondent authority should be restrained from taking any coercive measures.

5. Considering the earlier numerous decisions of this Court in this behalf and after having heard the learned counsel for the respondent authority and considering the facts and the earlier decisions of this Court as well as the Hon'ble Apex Court, we propose to pass following order:

O R D E R

Until the applications for stay submitted by the petitioners are heard and decided, the respondent authority shall not take further coercive step to recover the amount due and payable by the petitioners under the impugned order. Respondent No.2 - the Customs, Excise & Gold (Control) Appellate Tribunal - the appellate

authority, is directed to decide and dispose of the stay applications, as expeditiously as possible, and, preferably, within a period of four weeks from today. These petitions stand, accordingly, allowed. Rule is made absolute to that extent in each of the petition with no order as to costs.

(J.N. Bhatt, J.)

25.4.2001. (A.M. Kapadia, J.)

(karan)